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REPLY TO Wilmington Office

July 1, 2005

VIA E-FILING AND HAND DELIVERY

The Honorable Gregory M. Sleet
United States District Court
844 N. King Street
Wilmington, DE 19801

Re: Abbott Laboratories v. Bayer Healthcare, C.A. No. 04-1251 (GMS)

Dear Judge Sleet:

Pursuant to Paragraph 5(d) of the Scheduling Order (D.I. 24), Bayer, submits this agenda letter outlining the issues in dispute which it would like to raise at the teleconference scheduled for next Wednesday at 11:00 a.m. As background, this is a patent infringement action in which Abbott has accused Bayer of infringing three patents relating to schedulers, scheduling methods, and methods of modeling assays for immunoassay devices. The parties have conferred on several occasions regarding these issues and are at an impasse.

Issue 1:

Whether Abbott should designate a witness to testify in response to a Rule 30(b)(6) deposition notice concerning Bayer's laches defense. Bayer's 30(b)(6) deposition notice is directed specifically to when Abbott knew or should have known of its claim against Bayer. Abbott has refused to designate a witness claiming that the discovery sought "is not reasonably calculated to lead to the discovery of admissible evidence," and protected by attorney client privilege and work product immunity.

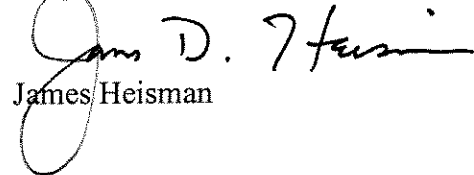
Issue 2:

Whether Abbott should produce its lawyer, William Murray, for deposition so that Bayer may ascertain non-privileged facts to support Bayer's laches defense. Abbott has previously proffered a declaration by Mr. Murray in the *Bayer Healthcare v. Abbott Laboratories*, Civil Action No. 03-189-GMS (Bayer v. Abbott), litigation in support of Abbott's infringement claims against the Centaur and to explain Abbott's delay in filing suit. Abbott has

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objected to Mr. Murray's deposition on the ground that all information sought is irrelevant or calls for privileged or work product information.

Respectfully submitted,


James Heisman

JDH:mtf

cc: Dr. Peter T. Dalleo, Clerk (By Hand)
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